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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,693	12/05/2003	Steven Garry	GARR-10037	4584

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BOOTH UDALL, PLC
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MESA, AZ 85206

EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/729,693

Applicant(s)

GARRY, STEVEN

Examiner

Gary K. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,5-14,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-4,15,16 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20031205</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, line 1, there is no antecedent basis for "the retractor".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 7 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Russell (US patent 5,423,621).

The patent to Russell discloses the invention as is claimed (figs. 1-8). Russell discloses a tool that has a handle (22, 222,322) with first and second ends. A plunger (24, 336) is provided at the first end and has a concave portion with an opening facing away from the handle. The plunger has an extended position where it is not compressed and a compressed or retracted position (36, fig.2).

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A brush (234, 334) is provided on the first end of the handle and is within the plunger when such is not compressed or extended (see fig.8) and extends from the plunger when it is compressed or retracted (see fig.2). A cross-member (28, 232, 328) is provided at the second end and extends radially therefrom and can have a rotatable knob (230) thereon. A rotatable sleeve (228) is also provided for grasping by a user.

With respect to claim 1, the tool of Russell is considered as a cleaning and plunging tool as it has all the claimed structure and appears capable of performing as claimed. Also, the members (24 and 336) of Russell are considered as a plunger, at least as far as defined.

With respect to claim 13, such does not distinguish from Russell as such relates to the intended use of the device. The tool of Russell can be used to clean any structure so desired.

Claims 1, 5, 8-11, 13, 14, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sterrick (US patent 1,018,939).

The patent to Sterrick discloses the invention as is claimed (figs. 1-3). Sterrick discloses a tool that has a handle (11) with first and second ends. A rubber plunger (10) is provided at the first end and has a concave portion with an opening facing away from the handle. The plunger has an extended position (fig.3) and a retracted position (fig.1) and is moved between positions by a slidable retractor (9) coupled to the plunger and moveable on the handle. A brush (8) is provided on the first end of the handle and is within the plunger when such is extended (see fig. 3) and extends from the plunger when it is retracted (see fig. 1). A cross-member (enlarged disk at handle end) is provided at the second end and extends radially therefrom.

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With respect to claim 1, the tool of Sterrick is considered as a cleaning and plunging tool as it has all the claimed structure and appears capable of performing as claimed. Also, the member (10) of Sterrick is considered as a plunger, at least as far as defined.

With respect to claim 10, it appears that sufficient squeezing of the retractor will cause such to engage the handle to restrict movement of the handle within the retractor.

With respect to claim 13, such does not distinguish from Sterrick as such relates to the intended use of the device. The tool of Sterrick can be used to clean any structure so desired.

Allowable Subject Matter

Claims 2-4, 15, 16 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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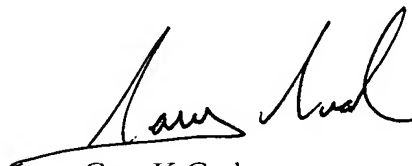
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys J. Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary K Graham
Primary Examiner
Art Unit 1744

GKG
29 March 2007